

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In re:	(Case No. 10-18356
	(
Allan & Jennifer Kissoon,	(Chapter 13
	(
Debtors	(Judge Harris

DEBTORS' MOTION TO AVOID JUDICIAL LIENS

Debtors, by and through counsel, and in support of this Motion to Avoid Judicial Liens, state to the Court as follows:

1. The Court has jurisdiction over this proceeding under 28 U.S.C. 1334(b) and 11 U.S.C. 522(f).
2. Debtors filed a petition under Chapter 13 of the Bankruptcy Code on August 24, 2010.
3. At the time of the filing, two (2) judicial liens were recorded against Debtors' real estate which is occupied as the homestead, specifically:
 - a.) Capital One Bank USA NA, lien number JL-10-421493, recorded on August 4, 2010 in the amount of \$842.90 (plus interest and costs), resulting from a judgment in case number 2010 CVF 005425 in the Cleveland Municipal Court, Cuyahoga County, Ohio;
 - b.) Capital One Bank USA NA, lien number JL-10-423606, recorded on August 26, 2010 in the amount of \$1,088.68 (plus interest and costs), resulting from a judgment in case number 2010 CVF 007544 in the Cleveland Municipal Court, Cuyahoga County, Ohio;
4. At the time the bankruptcy petition was filed, Debtors' homestead was valued at approximately \$108,100.00, and was encumbered by a first mortgage held by Mortgage Services Center/Dollar Bank with an approximate balance of \$97,101.80 (per proof of claim 8). (Copy of Auditor's Card is attached.)

5. Pursuant to O.R.C. 2329.66(A)(1) Debtors are entitled to exempt \$43,250 worth of equity in their homestead on Schedule C of their petition which was so claimed.
6. According to the formula set forth in 11 U.S.C. 522(f)(2)(A), the judicial liens held by the above-named creditors impair the homestead exemption to which Debtors are entitled under O.R.C. 2329.66(A)(1) and as such are avoidable pursuant to 11 U.S.C. 522(f)(1)(A).
7. Avoiding the judicial liens held by the above creditors is necessary for Debtors' fresh start.

WHEREFORE, Debtors request that this Court avoid the judicial liens held by Capital One Bank USA NA in their entirety in that said liens impair Debtors' homestead exemption, and grant such further relief as is just and equitable.

Respectfully submitted,

/s/ Debra Booher
Debra E. Booher (#0067804)
Debra Booher & Associates Co., LPA
1 Cascade Plaza, 1st Floor
Akron, OH 44308
Tel 330.253.1555
Fax 330.253.1599
charlotte@bankruptcyinfo.com
Attorneys for Debtors

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically transmitted on or about September 24, 2010 via the Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

The U.S. Trustee
Trustee Craig Shopneck

I further hereby certify that a copy of the foregoing was mailed on September 24, 2010 by regular U.S. Mail (unless otherwise noted) to the following parties:

Capital One Bank USA, NA
Attn: Officer or Director
4851 Cox Road
Glen Allen, VA 23060, Creditor (via certified)

Capital One Bank USA, NA
15000 Capital One Dr.
Richmond, VA 23238, Creditor

Capital One Bank USA, NA
c/o Weltman, Weinberg & Reis
323 W. Lakeside Ave., Ste. 200
Cleveland, OH 44113, Creditor's Attorney

Allan & Jennifer Kissoon,
14410 Roxboro Ave.
Cleveland, OH 44111, Debtors

/s/ Debra Booher
Debra Booher (#0067804)
Attorney for Debtors

HOME CONTACT CUYAHOGA COUNTY HOME		CUYAHOGA COUNTY AUDITOR	
Real Property Information			
General Information	Transfer History	Certified Values	Land Record
		Residential Bldg. Sketch	Taxes
			Search Page

PRIMARY OWNER Kissoon, Allan
SECONDARY OWNER Kissoon, Jennifer M.P.
PROPERTY ADDRESS 14410 Roxboro Ave, Cleveland, OH 44111
TAX MAILING ADDRESS DOL1 Dollar Bank Servicing Center, P O Box 8469 Canton, OH 44711
LEGAL DESCRIPTION 19 ROXBOROPK 0015 SP
PROPERTY CLASS SINGLE FAMILY DWELLING

[Field Definitions](#)

2009 (pay in 2010) TAXBILL SUMMARY

PARCEL NUMBER	024-27-055	TAXSET	Cleveland	TAX YEAR	2009 (pay in 2010)
----------------------	------------	---------------	-----------	-----------------	--------------------

<u>ASSESSED VALUES</u>		<u>MARKET VALUES</u>		<u>FLAGS</u>	
LAND VALUE	6,090.00	LAND VALUE	17,400.00	2.5% RED.	Y
BUILDING VALUE	31,750.00	BUILDING VALUE	90,700.00	HOMESTEAD	N
TOTAL VALUE	37,840.00	TOTAL VALUE	108,100.00	FORECLOSURE	N
HOMESTEAD VALUE	0			CERT. PEND.	N
				CERT. SOLD	N
				PAYMENT PLAN	N
<u>HALF YEAR CHARGE AMOUNTS</u>		<u>RATES</u>			
GROSS TAX	1,937.41	FULL RATE	102.4		
LESS 920 RED	649.66	920 RED. RATE	.335325		
SUB TOTAL	1,287.75	EFFECTIVE RATE	68.06267		
10% RED. AMOUNT	128.78			<u>ESCROW</u>	
2.5% RED. AMOUNT	32.19			ESCROW	N
HOMESTEAD RED. AMOUNT	0.00			PMT. AMOUNT	0.00
TOTAL ASSESSMENTS	0.00			ACCOUNT	
HALF YEAR NET TAXES	1,126.78				

	<u>CHARGES</u>	<u>PAYMENTS</u>	<u>BALANCE DUE</u>
TAX BALANCE SUMMARY:	2,253.56	2,253.56	0.00

2009 (pay in 2010) CHARGE AND PAYMENT DETAIL

Tax Information is up to the hour - tell me more.

TAXSET	CHARGE TYPE	CHARGES	PAYMENTS	BALANCE
Cleveland	1st half tax	1,126.78	1,126.78	0.00
	1ST HALF BALANCE	1,126.78	1,126.78	0.00
	2nd half tax	1,126.78	1,126.78	0.00
	2ND HALF BALANCE	1,126.78	1,126.78	0.00
TOTAL BALANCE		2,253.56	2,253.56	0.00

CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES.
 PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.

© CUYAHOGA COUNTY AUDITOR'S OFFICE